



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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156896

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
156896	9-10-89	ENTREPRENEUR	K

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GARDEN CITY, NEW YORK 11530

EXAMINER	
F. L. ZIMMERMAN	
ART UNIT	PAPER NUMBER
332	5

DATE MAILED:

This is a communication from the examiner in charge of your application.

09/14/89

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 8/28/89 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-91 are pending in the application.
Of the above, claims 1-6, 9, 12-15, 17-51 are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 7, 8, 10, 11, 16, 52-54, 58-75, 79-91 are rejected.
5. ☒ Claims 55-57, 76-78 are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 D.G. 213.
14. ☐ Other

Art Unit 332

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 8, and 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wampler ('712).

Note that in figure 1a, the device is seen to be implanted within the ventricle of the heart.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 10 is rejected under 35 U.S.C. § 103 as being unpatentable over Wampler, because the use of tissue ingrowth materials on the surface of an implant to enhance mechanical

stability is well known in the art.

Claim 11 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for an energy converter.

Claims 52-54, 70-75, 79-81, and 85-91 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dorman.

See column 2, lines 33-35.

Claims 61-63 are rejected under 35 U.S.C. § 103 as being unpatentable over Dorman.

These claims add only a limitation of size. The particular size suggested by these claims is well within the range of what a designer of such devices would consider in adapting the device of Dorman to patients of varying sizes.

Claims 58-60 are rejected under 35 U.S.C. § 103 as being unpatentable over Dorman.

Dorman teaches all of the elements of these claims except for the control feature. Control elements, broadly claimed here, are well known in the art. See Portner, or Jarvik (column 2, lines 30-34). To provide such additional structure to Dorman would be obvious to one of ordinary skill in the art.

Claims 64-69, 82-84 are rejected under 35 U.S.C. § 103 as

Serial No. 07/311921

-4-

Art Unit 332

being unpatentable over Dorman in view of Moise ('121).

Dorman teaches a scheme for rotating the rotor which differs from these claims in that the stator structure does not consist of the conventional windings. Instead, an external driving mechanism is employed. However, Moise teaches a drive structure such as is claimed here. To so modify Dorman would be obvious to one of ordinary skill in the art.

Claims 55-57, 76-78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

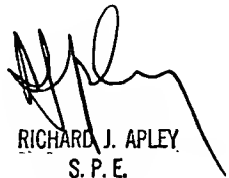
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Note the pumping schemes in Watkins, Bartels, Carter, Belenger, Rafferty, Kemner, Wampler ('586), Zibelin, Reich, Cataldo, Taboada, Isaacson, and Olsen.

Any inquiry concerning this communication should be directed to James Prizant at telephone number (703) 557-3125.



JP
September 10, 1989



RICHARD J. APLEY
S. P. E.
ART UNIT 332